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SUPREME COURT OF THE UNITED STATES.

No. ~~92~~ 40.

THE UNITED STATES, PLAINTIFF IN EPROR,

VERSUS

GEORGE MACDANIEL.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE COUNTY OF WASHINGTON, D. C.

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DISTRICT OF COLUMBIA, set.

At a circuit court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the first Monday of May, being the second day of the same month, in the year of our Lord one thousand eight hundred and thirty-one, and of the Independence of the United States the fifty fifth:

PRESENT:

The Honorable WILLIAM CRANCH, *Chief Judge.*
BUCKNER THRUSTON, and JAMES S. MORSELL, *Assistant Judges.*
HENRY ASHTON, Esq., *Marshal.*
WILLIAM BRENT, *Clerk.*

In the record of proceedings of the same court, among others, are the fol-following, to wit:

THE UNITED STATES OF AMERICA,
against
GEORGE MACDANIEL.

Be it remembered, that, heretofore, to wit, on the 5th day of September, in the year of our Lord one thousand eight hundred and twenty-nine, the United States of America, by Thomas Swann, Esquire, their attorney, prosecuted and sued forth, out of the circuit court here, the United States writ of capias ad respondendum, directed to the marshal of the District of Columbia, in the words and of the tenor following, to wit:

Capias ad respondendum.

"DISTRICT OF COLUMBIA, to wit:

The United States of America to the Marshal of the District of Columbia, greeting:

We command you, that you take George Macdaniel, late of Washington county, if he shall be found within the county of Washington, in your said district, and him safely keep, so that you have his body before the circuit court of the District of Columbia, to be held for the county aforesaid, at the city of Washington, on the first Monday of December next, to answer unto the United States of America, in a plea of trespass on the case, and so forth.

Hereof fail not at your peril, and have you then and there this writ.

Witness, William Cranch, Esquire, Chief Judge of our said court at the city of Washington, the 14th day of August, Anno Domini, one thousand eight hundred and twenty-nine.

Issued the 5th September, 1829.

W. BRENT, *Clerk.*"

SWANN.

And the said United States, by their attorney aforesaid, on the day of prosecuting and suing forth of the aforesaid writ, declared against the said George Macdaniel, in the plea aforesaid, in form following, to wit:

Nar.

"DISTRICT OF COLUMBIA, WASHINGTON COUNTY, to wit:

George Macdaniel, late of the county aforesaid, gentleman, was attached to answer unto the United States of America, in a plea of trespass on the case, and so forth. And whereupon, the said United States, by Thomas Swann, their attorney, complain that, whereas, the said defendant, on the fifteenth day of August, in the year of our Lord one thousand eight hundred and twenty-nine, at the county aforesaid, was indebted unto the said plaintiffs in the sum of nine hundred and eighty-eight dollars and ninety-four cents current money, for sundry matters and articles properly chargeable in an account, as by a particular account thereof herewith into court exhibited appears; and so being indebted, the said defendant, in consideration thereof, afterwards, to wit, on the day and year aforesaid, at the county aforesaid,

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undertook, and faithfully promised to the said plaintiffs, to pay them the aforesaid sum of money, when he should be thereto afterwards required.

And whereas the said defendant afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, was indebted unto the said plaintiffs in another sum of nine hundred and eighty-eight dollars and ninety-eight cents, like money, for divers goods, wares and merchandises, by the said plaintiffs before that time sold and delivered to the said defendant, and at his special instance and request; and being so indebted, the said defendant in consideration thereof, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, undertook and promised to the said plaintiffs, to pay them the last aforesaid sum of money, when he should be afterwards thereto required.

And whereas, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, in consideration that the said plaintiffs, at the like instance and request of him the said defendant, had, before that time, sold and delivered to the said defendant divers other goods, wares and merchandises; the said defendant undertook and promised the said plaintiffs to pay them so much money as they therefor reasonably deserved to have, when he, the said defendant, should be thereunto afterwards requested; and the said plaintiffs in fact aver, that they therefor reasonably deserved to have of the said defendant, another sum of nine hundred and eighty-eight dollars and ninety-four cents like money, whereof the said defendant afterwards, to wit, on the day and year aforesaid, at the county aforesaid, had notice.

And whereas the said defendant afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, was indebted unto the said plaintiffs in another sum of nine hundred and eighty-eight dollars and ninety-four cents like money, for the like sum of money, by the said plaintiffs, and for the use of the said defendant before that time, paid, laid out and expended, at the special instance and request of the said defendant, and for other money by the said plaintiffs before that time lent and advanced to the said defendant at his special instance and request; and for other money by the said defendant before that time had and received to the use of the said plaintiffs; and being so indebted, the said defendant in consideration thereof, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, undertook and promised the said plaintiffs, to pay them the said last mentioned sum of money, when afterwards he should be thereunto required.

And whereas the said defendant, afterwards, to wit, on the same day and year aforesaid, at the county aforesaid, accounted, together with the said plaintiffs of and concerning divers other sums of money, before that time due, and owing from the said defendant to the said plaintiffs, and then being in arrear and unpaid, and upon that account the said defendant was then and there found in arrear, and indebted to the said plaintiffs in a large sum of money, to wit, in the further sum of nine hundred and eighty-eight dollars and ninety-four cents like money; and being so found in arrear, and indebted to said plaintiffs, the said defendant in consideration thereof, afterwards, to wit, on the day and year aforesaid, at the county aforesaid, undertook and promised to the said plaintiffs, to pay them the said last mentioned sum of money, when he should be thereunto afterwards required.

Yet the said defendant not regarding his said several promises and undertakings, so by him made in this behalf as aforesaid, but contriving, and fraudulently intending, craftily and subtlely to deceive and defraud the said plaintiffs in this respect, has not yet paid the said several sums of money, or

any part thereof, to the said plaintiffs, (although so to do the said defendant was requested by the said plaintiffs, on the same day and year aforesaid, and often afterwards, at the county aforesaid,) but he to do this hath hitherto refused, and still refuses. Wherefore the said plaintiffs say they are injured, and have sustained damage to the value of two thousand dollars current money, and therefore they bring suit, &c.

SWANN, *for the plaintiffs.*

Pledges, &c.—JOHN DOE & RICHARD ROE."

A copy of which said declaration was made and sent with the said writ to the marshal of the district aforesaid, thereon endorsed, "to be served on the defendant with the writ."

At which mentioned first Monday of December, in the year of our Lord one thousand eight hundred and twenty-nine, being the day of the return of the aforegoing writ, come into the said circuit court here, the said United States of America, by their attorney aforesaid; and the marshal of the District aforesaid, to whom the said aforegoing writ was in form aforesaid directed, makes return thereof to the court here, thus endorsed, to wit: "Cepi, copy, nar. left. T. Ringgold, marshal." And the said George Macdaniel being called, appears in court here by Walter Jones, Esq., his attorney, and thereupon, on motion of the said United States, by their attorney aforesaid, it is ruled by the court here, that the said George Macdaniel give special bail in the plea aforesaid, or in default thereof, be committed to the custody of the marshal of the district aforesaid; whereupon, a certain Ezekiel Macdaniel present here in court, in his own proper person, and (with the consent of the said United States, by their attorney aforesaid,) undertakes for the said George Macdaniel, that in case the said U. States shall recover judgment against the said George Macdaniel in the plea aforesaid, or that the said George Macdaniel shall be therein legally convict, that then the said George Macdaniel shall pay the condemnation of the court thereupon, or render his body to the custody of the marshal of the district aforesaid in satisfaction thereof, or that he, the said Ezekiel Macdaniel, will do the same for him. And thereupon, on motion of the said United States, by their attorney aforesaid, it is ruled by the court here, that the said George Macdaniel answer to the declaration aforesaid of the said United States, in the plea aforesaid, or judgment by the court here will be entered against him in default thereof; and the said George Macdaniel, by his attorney aforesaid, defends the force and injury, when, and so forth, and prays leave of the court here to imparle until the first Monday of May next, and then to answer to the declaration aforesaid of the said United States, in the plea aforesaid, and to him it is granted; the same day is given to the said United States, also.

Return of capias.

Special bail.

Rule plea.

At which mentioned first Monday of May, in the year of our Lord one thousand eight hundred and thirty, to which said day the said George Macdaniel had leave to imparle, and then to answer to the declaration aforesaid of the said United States in the plea aforesaid, come again into the circuit court here, as well the said United States, by their attorney aforesaid, as the said George Macdaniel, by his attorney aforesaid; and the said George Macdaniel, by his attorney aforesaid, as before, defends the force and injury, when, and so forth; and saith, that he did not assume upon himself, in manner and form as the aforesaid United States above against him have complained, and of this he puts himself upon

Plea of non assumpsit.

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the country, and the said United States in like manner, and so forth; therefore let a jury thereon appear before the court here on the first Monday of December next, by whom, &c., and who neither, &c., to recognize, &c., because as well, &c. the same day is given to the said parties, then and there, &c. Venire.

At which said first Monday of December, in the year of our Lord one thousand eight hundred and thirty, come again into the circuit court here, as well the said United States, by their attorney aforesaid, as the said George Macdaniel, by his attorney aforesaid; and thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties by their attorneys aforesaid, and by order of the court here thereon, is continued until the first Monday of May next.

And now at this day, to wit, the said first Monday of May, in the year of our Lord one thousand eight hundred and thirty-one, come again into the circuit court here, as well the said United States, by their attorney aforesaid, as the said George Macdaniel, by his attorney aforesaid; whereupon, for trying the issue aforesaid, it is ordered by the court here, that twelve persons from the pannel of petit jurors returned to the court here by the marshal of the district aforesaid, be drawn by ballot, according to the law in such case made and provided; and thereupon, the twelve persons so drawn being called, come, who being empannelled, and sworn to say the truth in the premises, upon their oath do say, that the said George Macdaniel did not assume upon himself in manner and form as the said United States within against him have complained; therefore it is considered by the court here, that the said United States take nothing by their writ and declaration aforesaid, and that the said George Macdaniel go thereof without day, &c. Verdict of jury for defendant. Judgment on verdict.

Memorandum.—Before the jurors aforesaid withdrew from the bar of the court here, the said United States, by their attorney aforesaid, filed in court here the following bill of exceptions, to wit:

Bill of exceptions.

"THE UNITED STATES,
vs.
GEORGE MACDANIEL.

Upon the trial of this cause, the United States gave in evidence to the jury, the account hereunto annexed, with the certificates and authentications thereto attached, all in these words and figures, to wit, (copied on page 14, &c.)

Upon this account, the attorney for the United States claimed from the defendant a balance of $988 94, with interest thereon from the 3d of August, 1829.

The defendant then examined a witness to prove that the said defendant was a clerk in the Navy Department upon an annual salary of $1,400, and while he was so acting as clerk, he was engaged and acted as the agent for the payment of the moneys due to the navy pensioners, the privateer pensioners, and acted also as a special agent for the navy disbursements; and the moneys which were applied to the use of these objects, were placed in his hands by the Government, and disbursed by him. That he was allowed for his services in the payment of the pensions, the annual sum of $250. But

he has no knowledge that any annual sum was ever allowed him for his services as a special agent for the navy disbursements. The witness stated that he was also a clerk in the Navy Department, and was in the habit of stating the defendant's accounts as special agent; and he knows that a commission of one per cent. was always allowed him, to his knowledge, for ten or fifteen years past, until the settlement of the present account, upon his disbursements as special agent for the navy disbursements.

The witness further stated that the services of this special agent, in these disbursements, were similar to those performed by other navy agents, such as the navy agent of Boston, &c. That they amounted, during the period that he acted as agent as aforesaid, to from fifty to $100,000 a year; that the defendant gave no bond or security, to his knowledge, for the performance of these duties.

The defendant then gave in evidence to the jury the certificate of B. W. Crowninshield, then Secretary of the Navy, of the 3d of May, 1817, in these words, to wit, (copied on page [illegible],) and his account against the United States, allowed by Smith Thompson, then Secretary of the Navy, in these words, to wit, (copied on page 37–8.)

The defendant set up against the claim made against him by the United States, in this case, a charge for a commission of one per cent., as special agent of the Navy Department, on the expenditure of $11,789 20, amounting to $117 89, and a like commission of $692 30, upon the expenditure of $69,229 92, which commissions had been disallowed by the Navy Department, and if now disallowed upon this trial, would leave the defendant indebted to the United States in the sum of $810 19, exclusive of the other items of claim made against him in this case.

The witness who gave testimony for the defendant, proved that the services performed by the defendant, as special agent as aforesaid, were performed during office hours, and occupied from one-third to one-fourth of his time.

The defendant further proved that witness had had occasion, in the discharge of his duties in the 4th Auditor's Office, to examine the accounts of defendant, and reported the accounts in question; that the same commission was claimed by defendant in these accounts, as had been charged and allowed in all his previous accounts, so far as witness has examined them; that the services had then been rendered, and the moneys disbursed, when the exception was taken; that witness knows that the accounts of public disbursements, including all these allowances of commissions upon disbursements, are annually submitted to Congress, and inspected by a committee specially appointed for that purpose; that said committee attends at the different offices, where the books are open for their inspection; that the accounts embracing defendant's claims and allowances are regularly so submitted and inspected, and that no objection, as witness has ever heard, was taken by any committee, or any individual, to such allowances, until defendant's final account, after leaving office, was settled by the 4th Auditor. Defendant promptly paid over all the moneys in his hands when the amount was adjusted, reserving only the sums claimed by him which appear in the accounts exhibited; and if they are allowed him, he has no public money in his hands.

Defendant further offered in evidence a report from the Secretary of the Treasury to Congress, 1st March, 1831. Doc. 126, H. R. 21st Cong. 2d Sess. (Prout same.)

Upon the evidence so given to the jury, the counsel for the United States prayed the court to instruct the jury, that if they should believe the same to be true, that still the defendant had no right, by law, to the commissions which he claims in this case, and that, as the sums so charged as aforesaid, as commissions, had never been allowed to him by any department of the Government, it was not competent for the jury to allow them upon this trial.

Which instruction the court refused to give, to which refusal the United States, by their attorney, except; and this their bill of exceptions is signed, sealed, and ordered to be enrolled, 30th May, 1831.

W. CRANCH, [L. S.]
B. THRUSTON, [L. S.]
JAMES S. MORSELL. [L. S.]

Dr. *George Macdaniel, late special agent, in account with the United States.* Cr.

Pay afloat:			Pay afloat:		
To general acc't of requisitions on the Treasury for requisition No. 3,134, to effect a transfer, - - - - -	$ 62,064 73		By balance due against per rep. No. 7,718, April 16, 1829, - - - -	$ 62,064 73	
Pay, &c. of shore stations:			Pay, &c., of shore stations:		
To balance due U. States per report No. 7,718, April 16, 1829, - - -	864 41		By general acc't of requisitions in favor of the Treasury for requisition No. 327, to effect a transfer, - - -	864 41	
Provisions:			Provisions:		
To balance due United States per report No. 7,718, April 16, 1829, - - -	-	84,470 95	By——.		
Hospital:			Hospital:		
To balance due United States per report No. 7,718, April 16, 1829, - - -	-	8,919 13	By——.		
Repairs, &c.:			Repairs, &c.:		
To balance due United States per report No. 7,718, April 16, 1829, - - -	16,081 20		By general acc't of requisitions in favor of the Treasury for requisition No. 327, to effect a transfer, - - -	16,081 20	
Cont. for 1824:			Cont. for 1824:		
To balance due United States per report No. 7,718, April 16, 1829, - - -	-	39 88	By——.		
Cont. for 1825:			Cont. for 1825:		
To——.			By balance due against per report 7,718, April 16, 1829, - - - -	-	33,858 56
Cont. prior:			Cont. prior:		
To——.			By balance due against per report 7,718, April 16, 1829, - - - -	-	1,918,08

Cont. for 1826:				Cont. for 1826:		
To——.				By balance due agent per report 7,718, April 16, 1829, - - - - -	-	17,130 99
Cont. for 1827:				Cont. for 1827:		
To balance due U. States per report 7,718,	-	687 60		By——.		
Cont. for 1828:				Cont. for 1828:		
To——.				By balance due to agent per report No. 7,718,	-	6,704 55
Cont. for 1829:				Cont. for 1829:		
To balance due U. S. per report No. 7,718:	3,596 42			By general acc't of requisitions in favor of the Treasury for requisition No. 327, to effect a transfer, - - - - -	3,596 42	
Cont. not enumerated for 1825:				Cont. not enumerated for 1825:		
To balance due U. States per report No. 7,718, April 16, - - - - - -	-	114 57		By——.		
Cont. not enumerated for 1827:				Cont. not enumerated for 1827:		
To balance due U. States per report No. 7,718, April 16, - - - - -	-	37 00		By——.		
Cont. not enumerated for 1828:				Cont. not enumerated for 1828:		
To general acc't of requisitions on the Treasury for requisition No. 3,134, to effect a transfer, - - - - - -	112 21			By balance due agent per report No. 7,718, April 16, - - - - - -	112 21	
Ordnance:				Ordnance:		
To general acc't of requisitions on the Treasurer for req. No. 3,134, to effect a transfer,	695 13			By balance due agent per report No. 7,718, April 16, - - - - - -	695 13	
Navy Yards:				Navy Yards:		
To general acc't of requisitions of the Treasurer for req. No. 3,134, to effect a transfer,	1,619 57			By balance due agent per report No. 7,718, April 16, - - - - - -	1,619 57	
Increase:				Increase:		
To——.				By balance due agent per report 7,718, Apl. 16, - - - - - -	-	57,123 02

DR. ACCOUNT—Continued. CR.

10 Sloops of War:			10 Sloops of War:			
To balance due U. States per report 7,718, April 16, - - - - - -	$16,938 96		By general acc't of requisitions in favor of the Treasury for requisition No. 327, to effect a transfer, - - - -	$16,938 96		
Improvement of the Navy:			Improvement of the Navy:			
To balance due U. States per report 7,718, April 16, - - - - - -	48,349 76		By general acc't of requisitions in favor of the Treasury, for requisition No. 327, to effect a transfer, - - - -	27,461 33		
	48,349 76			20,888 43		
To balance due U. States under this head, -	-	$20,888 43		48,349 76		
Arrearages:			Arrearages:			
To balance due U. States per report 7,718 -	-	393 98	By——.			
Ship houses:			Ship houses:			
To——.			By balance due agent per report No. 7,718,	-	158 74	
Pay, &c., of M. corps:			Pay, &c., of M. corps:			
To general acc't of requisitions on the Treasurer for requisition No. 3,134, to effect a transfer, - - - - - -	400 68		By balance due agent per report No. 7,718, April 16, - - - - -	400 68		
Survey of Florida coast:			Survey of Florida coast:			
To——.			By balance due agent per report No. 7,718, April 16, - - - - -	-	71 82	
Survey of Savannah, &c.:			Survey of Savannah, &c.:			
To general acc't of requisitions on the Treasurer for requisition No. 3 134, to effect a transfer, - - - - - -	50 00		By balance due agent per report No. 7,718, April 16, - - - - -	50 00		
Piracy:			Piracy:			
To——.			By balance due agent per report No. 7,718, April 16, 1829, - - - -	-	255 98	

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Survey of Charleston and St. Mary's:			Survey of Charleston and St. Mary's:		
To balance due U. States per report No. 7,718, April 16, 1829, - - -	-	706 87	By——.		
Slave trade:			Slave trade:		
To balance due U. States per report No. 7,718,	-	300 00	By——:		
Breakwater:			Breakwater:		
To balance due U. States per report No. 7,718,	-	389 35	By——.		
Cont. M. corps:			Cont. M. corps:		
To balance due U. States per report No. 7,718,	-	14 42	By——.		
Due U. States, -	-	116,962 18	Due to agent, - - -	-	117,221 74
			Deduct balance due U. States,	-	116,962 18
			Total balance due to agent - -	-	259 56
Privateer pension fund:			Privateer pension fund:		
To general account of requisitions on the Treasurer for requisition No. 3,134, to effect a transfer, - - - -	2 58		By accounts transferred from the Privateer pension books for balance per report No. 54,	2 58	
Navy pension fund:			Navy pension fund:		
To accounts transferred from the Navy pension books for balance per report No. 155,	1,939 41		By general account of requisitions in favor of the treaty for requisition No. 327, to effect a transfer, - - - -	2 58	
			By general account of requisitions in favor of the Treasurer for refun'g requisition No. 326, Aug. 1829, for this sum deposited to the credit of the Treasurer of U. States Branch Bank at Washington, -	688 33	
	1,939 41		By balance due U. States under this head,	1,248 50	
				1,939 41	
To balance due U. States under this head, -	-	1,248 50			

RECAPITULATION.

To balance due U. States under Navy pension fund, - - - - - - - -	$1,248 50
By balance due Geo. Macdaniel, late special agent under Navy expenditures, - - - -	259 56
Total balance due U. States, - - -	988 94

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Reconcilement of the account of George Macdaniel, late special agent, to the 8th April, 1829.

To commissions on expenditures of $11,789 20, at 1 per cent. disallowed by the 4th Auditor	$117	89
To this sum, suspended by the Second Comptroller, as per statement herewith	68	25
To this sum disallowed by the Secretary of the Navy, as per statement herewith	42	00
To this sum due to agent, as per certified statement of the Second Comptroller	259	56
Balance due agent as per his summary	$487	70

General reconciling statement of the accounts of George Macdaniel, special agent.

To balance due the United States per his account current, received on 5th June, 1829	$ 688	33
To this sum disallowed as per reconciling statement of his Navy expenditure account herewith	228	14
To commissions on $69,229 92, paid over to the Treasurer of the United States at 1 per cent. as debited in his account as late special agent of the Navy Department, marked A, received on 5th June, 1829, not allowed	692	30
To compensation as agent for paying pensioners, from 1st March to 31st May, 1829, not allowed	62	50
To error in statement No. 141, (previous report) in payment of Fall's pension	6	00
	1,677	27
By this sum deposited to credit of the Treasurer of the United States, the 3d August, 1829	688	33
Balance due U. States per statement revised by Comptroller	$ 988	94

Report—No. 130.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, *Aug.* 10, 1829.

I certify, that I have examined and adjusted the account of George Macdaniel, late special agent, and find that there is due from him to the United States, a balance of nine hundred and eighty-eight dollars and ninety-four cents, viz:

Due United States under navy pension fund	$1,248	50
Due George Macdaniel, late special agent, under navy expenditures	259	56
Balance due United States as per official statement	$ 988	94

As appears from the statement and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

T. H. GILLISS, *Acting 4th Auditor.*

ISAAC HILL, Esq.
Second Comptroller of the Treasury.

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SECOND COMPTROLLER'S OFFICE.

I admit and certify the above balance, this 12th day of August, 1829.

ISAAC HILL,
Second Comptroller.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, *Aug.* 28, 1829.

Pursuant to "an act to provide for the prompt settlement of public accounts," approved 3d march, 1817, I, T. H. Gilliss, acting Fourth Auditor of the Treasury of the United States, do hereby certify, that the foregoing is a true transcript from the original reports on file in this office.

T. H. GILLISS,
Acting 4th Auditor.

Be it remembered, that T. H. Gilliss, Esquire, who certified the aforegoing transcript, is now, and was at the time of doing so, acting Fourth Auditor of the Treasury of the United States, and that faith and credit are due to his official attestations.

In testimony whereof, I, Samuel D. Ingham, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this department, at the city of Washington, this twenty-eighth day of August, in the year of our Lord one thousand eight hundred and twenty-nine.

[L. S.]

S. D. INGHAM,
Secretary of the Treasury.

DR. *The United States in account current with George Macdaniel, late agent.* CR.

To balance due for expenditures, commissions, &c., per account as late special agent of the Department. A - - - - - -	1,180 00	By balance due the United States Navy pension fund on the 1st June, 1829, per acc't and vouchers marked C - - -	1,870 91
To balance due for expenditures as agent of the privateer pension fund, as per account B - -	2 58		$1,870 91
Balance due the United States - - -	688 33		
	$1,870 91	By balance due the United States - -	688 33

Errors excepted: GEORGE MACDANIEL, *late agent.*

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DR. *George Macdaniel, agent, in account with Commis. Navy Pension Fund.* CR.

March, 1829. To balance due per report No. 141 - - -	$2,101 41	By Navy pension fund for payments to pensioners, 1st Jan'y, 1828, to 1st May, 1829, per vouch. C	$ 162 00
		Balance due - - - - -	1,939 41
To balance due the Navy pension fund -	1,939 41		

TREASURY DEPARTMENT,
Fourth Auditor's Office.

Stated by WILLIAM HUNTER, *Clerk.*

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Report—No. 155, 144.

TREASURY DEPARTMENT,

FOURTH AUDITOR'S OFFICE, *June* 13, 1829.

I certify, that I have examined and adjusted the account of George Macdaniel, agent for the District of Columbia, and find that there is due from him to the navy pension fund, a balance of one thousand nine hundred and thirty-nine dollars and forty-one cents, after crediting his payments to pensioners to 1st May, 1829; as appears from the statements and vouchers herewith transmitted for the decision of the Second Comptroller of the Treasury thereon.

AMOS KENDALL, *Auditor.*

To ISAAC HILL, ESQ.,
Second Comptroller of the Treasury.

SECOND COMPTROLLER'S OFFICE.

I admit and certify the above balance, this 17th June, 1829.

E. REYNOLDS,
Acting Second Comptroller.

Account rendered by George Macdaniel.

Dr. *The United States in account current with Geo. Macdaniel, late agent, &c.* Cr.

To balance due for expenditures and commissions, per account rendered as late special agent of the department, A - -	1,180 00	By balance due the U. S. Navy pension fund, on the 1st June, 1829, per account and vouchers rendered, marked C -	1,870 91
To balance due for expenditures as agent of the privateer pension fund, per account rendered, marked B - - - -	2 58		
Balance due the United States - -	688 33		
	$1,870 91		$1,870 91
Aug't. 3.			
To this sum deposited to the credit of the Treasurer U. States, per letter and certificate D - - - - -	688 33	By balance due the U. States, account rendered. "See letter of 5th June." -	688 33

E. Exd.

GEO. MACDANIEL,
Late Agent, &c.

Reconciling statement of Geo. Macdaniel's account.

General reconciling statement of the account of Geo. Macdaniel, special agent.

To balance due the U. S. per his account current, rendered on the 5th June, 1829 - - - - - -	$688 33
This sum disallowed, as per reconciling statement of his navy expenditure account herewith - - - -	228 14
Commission on $69,229 92, paid over to the Treasurer of the United States at 1 pr. cent. as debited in his account as late special agent of Navy Department, marked A. Reeorded on the 5th June, 1829. Not allowed - - -	692 30
Compensation as agent for paying pensions from 1st March to 31 May, 1829. Not allowed - - - -	62 50
Error in statement No. 141, (previous report) in payments of Fall's pension - - - - - -	6 00
	1,677 29
By this sum deposited to the credit of the Treasurer of the U. States the 3d Aug't, 1829 - - - - -	688 33
Balance due the United States, by statement examined by Comptroller, 12th August, 1829 - - - - -	988 96

THOS. H. GILLISS, *Act. 4th Aud.*

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, *May* 27, 1831.

I certify that the above is a true copy from the records of this office.
T. H. GILLISS, *Act'g 4th Aud.*

Certificate of deposit in the Bank United States, marked D.

OFFICE OF DISCOUNT AND DEPOSIT,
Duplicate. WASHINGTON, *Augt.* 3*d*, 1829.

George Macdaniel has deposited in this office, to the credit of the Treasurer of the United States, six hundred and eighty-eight and $\frac{33}{100}$ dr., for which I have signed duplicate receipts.

$688\frac{33}{100}$. J. W. HOUSTON, *Teller.*

Account marked A.

The United States in account with George Macdaniel, late spe. agent of th Navy Department.

To balance due per account rendered for expenditures, &c. to 1st April, 1829, when his agency was discontinued - -	$487 70
To commissions on the following sums paid, and embraced in previous statements of my accounts, No. 7,273 and 7,538, which commis. have not heretofore been charged, as will appear by reference to said statements, to wit:	
April, 1828. Paid to the Treasurer of the U. States, per vo. filed in report No. 7,273 - - - $20,000 00	

Decemb. 1828, Ditto ditto ditto, per vouchers filed in report No. 7,538 - - -	49,229 92	
The usual comm. of 1 per cent. on - -	69,229 92,	is 692 30
Due from the U. States - -		1,180 00

E. Exd. GEO. MACDANIEL,
Late Special Agent.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, *May 27th*, 1831.

I certify that the within is a true copy of the original on file in this office.
T. H. GILLISS, *Actg. 4th Aud.*

Account marked C.

The U. States' Navy Pension Fund, in account with George Macdaniel, late agent.

For the following payments made to navy pensioners, to 31st May, 1829:				
Vo. 1, Wm. Barker, his pension for	1 Jan'y, 1828, to 1 Jany.	1829		72 00
2, Benj'n Kendrick,	" 1 Jan'y to 1 March,	"		12 00
3, Eleanor Talbot, guard'n,	1 Jan'y to 1 April,	"		30 00
4, James Good,	" ditto	"		36 00
5, Benjamin Kendrick	" 1 March to 1 May,	"		12 00
To my usual compensation as agent for paying pensioners, from 1st March to 31st May, 1829, at $250 per annum, 3 mos. -				62 50
Balance due the fund 1st June, 1829				1,870 91
				2,095 41

Cr.

By balance due the fund per report No. 141, to 1st Feb'y, 1829, 2,095 41

E. Exd. GEORGE MACDANIEL,
Late Agent N. P. Fd.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE.

I certify that the within is a true copy of the original on file in this office.
T. H. GILLISS, *Actg. 4th Aud.*

U. S. Navy Department. Accot. "Provisions:"

U. S. sloop of war St. Louis to Edward Simms, Dr.

1828, Decr. To 26 bbls. sup. flour, at 7\frac{62\frac{1}{2}}{100}$ - - - $198 25

NAVY YARD, WASHINGTON,
Feb'y 12, 1829.

I hereby certify that the flour charged in the above account has been received at this place.

CARY SELDEN, *N. S. K.*

No. 6,409. Approved. "Provisions." Navy Yard, Wash'n, 14 Feb'y, 1829.
THOMAS TINGEY.

Rec'd 13th March, 1829, of Geo. Macdaniel, one hundred ninety-eight dollars twenty-five cents in payment.

WILLIAM COSTIN.

Endorsements.

Pay R. C. Weightman, cash'r, or order.

EDWARD SIMMS.

Pay William Costin, porter, or order.

R. C. WEIGHTMAN, *Cash'r.*

2d COMPT'S OFFICE.

Contract price $5; overcharged $68 25; the voucher also wants the certificate of inspection, as required in all provision contracts.

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, *May* 27, 1831.

I certify that the within is a true copy of the original on file in this office.
T. H. GILLISS, *Actg. 4th Auditor.*

U. S. Navy Dept. Dr. to Lieut. John A. Cook:

1829, Feb. 27th, To 17 days' attendance on the survey of bread at Alex'a, at $1 50 per day - - -	$25	50
To 3 passages to and from Alex'a, making 42 miles, at 15 cts. pr. mile - - - -	6	30
	$31	80

No. 2. Approved. Contingent. Mr. Cook having been ordered to attend to the above duty.

TH. HOLDUP STEVENS.

Rec'd, 13th March, 1829, of George Macdaniel thirty-one dollars eighty cents in payment.

WILLIAM COSTIN.

Endorsement.

No. 23. 31. 80. Jno. A. Cook.
13 March, '29. Pay R. C. Weightman, cash'r, or order.

JOHN A. COOK.

Pay Wm. Costin, porter, or order.

R. C. WEIGHTMAN, *Cash'r.*

The following endorsement was made in the Second Comptroller's office in pencil:

"The additional charge of $150 requires the sanction of the Secretary of the Navy."

And the following by the Secretary of the Navy:

"This charge for a per diem allowance is not approved." J. B.

TREASURY DEPARTMENT,

FOURTH AUDITOR'S OFFICE, 27 *May*, 1831.

The foregoing is a true copy of the original on file in this office.

T. H. GILLISS, *Actg. 4th Aud.*

U. S. Navy Department to Lieut. Alex'r G. Gordon.

To 11 days' attendance on the survey of bread at Alexandria, at $1 50 per day, is - - - - - - -	$16 50
To travelling expenses from Washington to Alexandria and returning, making 14 miles, at 15 cents per mile - -	2 10
	$18 60

No. 3. App'd. Contingent. Mr. Gordon having been ordered on the above duty. Navy Yard, Wash'n, 2d Mar. 1829.

THO. HOLDUP STEVENS.

Rec'd, 13 March, 1829, of Geo. Macdaniel, eighteen dollars sixty cents in payment.

WM. COSTIN.

Endorsement.

Pay R. C. Weightman, cash'r, or order.

ALEX'R G. GORDON, *U. S. Navy.*

Pay Wm. Costin, porter, or order.

R. C. WEIGHTMAN, *Cash'r.*

The following endorsement made in the Second Comptroller's office in pencil:

"The additional allowance of $1.50 requires the sanction of the Secretary of the Navy."

The following endorsement made by the Secretary of the Navy in pencil:

"When the Lieut. is in receipt of pay for his whole time, I cannot perceive the propriety of making a per diem allowance; this charge is therefore disallowed. J. B."

TREASURY DEPT.,

FOURTH AUD'RS OFFICE, 27 *May*, 1831.

I certify that the aforegoing is a true copy of the original on file in this office.

T. H. GILLISS, *Actg. 4th Aud.*

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TREASURY DEPARTMENT,
4TH AUDITOR'S OFFICE, *29th August*, 1829.

SIR: Your letter of the 26th inst. has been received, and instructions this day given to the President of the Office of Discount and Deposit at Washington, to check from the pay of J. Stull, navy pensioner, $6 (overpaid by you) when he shall apply for his next payment. A certified transcript of your account was made out and forwarded to the 2d Comptroller yesterday. I am, sir, respectfully, your obedient servant,

T. H. GILLISS, *Actg. 4th Auditor.*

GEORGE MACDANIEL, Esq.
Alexandria, D. C.

Account B.

The U. S. Privateer Pension Fund, in account with Geo. Macdaniel, late agent:

To balance due per report No. 47, expenditures to 1st May, 1828		2 58
To payments made to John Boyle, Secretary to the Comm'rs of the Fund, from 1st of April, 1828, to 1st of April, 1829, per vouchers No. 1 and 4 - - - - -		250 00
		252 58
Credit.		
By warrant in July, 1828 - - -	125 00	
Do. in Jan'y, 1829 - - -	125 00	
		250 00
Balance due the agent . -		2 58

E. Exd. GEO. MACDANIEL, *late Agent.*

Certificate of B. W. Crowninshield.

NAVY DEPARTMENT, *May 3d*, 1817.

George Macdaniel, as Agent of the Navy Pension Fund, upon all expenditures by him heretofore made, is entitled to the same commissions as have been allowed to other agents.

B. W. CROWNINSHIELD,
Secretary of the Navy.

The Navy Pension Fund to George Macdaniel:

For compensation as clerk of the Navy Pension accounts from the 1st of July to 31st of December, 1818, inclusive, at the rate of two hundred and fifty dollars per annum - - - - - $125 00

Respectfully submitted.

G. MACDANIEL.

Upon which account are the following endorsements: "To be allowed.
SMITH THOMPSON."

"Received payment in account.
G. MACDANIEL."

Test. WM. BRENT, *Clerk.*

And whereas, afterwards, to wit, on the fourth day of June, in the year of our Lord one thousand eight hundred and thirty-one, the said United States, by their attorney aforesaid, produced and filed in court here the United States' writ for the correcting of errors of and upon the judgment aforesaid, directed to the judges of the circuit court of the District of Columbia, in the county of Washington, and in pursuance thereof, and according to the form and effect of the law in such case made and provided, a transcript of the record of proceedings of the judgment aforesaid, and all things thereunto relating, with the writ of error aforesaid, and a copy of the appeal bond hereto annexed, is hereby transmitted to the said Supreme Court accordingly.

In testimony whereof, I have hereunto subscribed my name, and affixed the public seal of said court for the county aforesaid, this day of September, in the year one thousand eight hundred and thirty-one.

WM. BRENT, *Clk.* [L. S.]

Writ of error.

UNITED STATES OF AMERICA, sct.—*The President of the United States to the judges of the circuit court of the United States for the District of Columbia, sitting for the county of Washington, greeting:*

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you or some of you, between the United States of America, plaintiffs, and George Macdaniel, defendant, a manifest error hath happened, to the great damage of the said United States, as by their complaint appears; we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be therein given, that then, under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of August next, in the said Supreme Court, to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, which of right, and according to the laws and custom of the United States should be done.

Witness, the honorable John Marshall, chief justice of the said Supreme Court.

Issued this 4th day of June, 1831.

WM. BRENT, *Clk.*
Ct. Ct. Dist. Col'a, Co'ty of Wash'n

Citation.

UNITED STATES OF AMERICA, *District of Columbia, Washington county, ss.—To George Macdaniel, greeting:*

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of August next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the District of Columbia, in the county of Washington, wherein the United States of America are plaintiffs in error, and you are defendant in error, to shew cause, if any there be, why judgment rendered against the said United States, as in the said writ

of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the honorable William Cranch, chief judge of the circuit court for the District of Columbia, this 4th day of June, 1831.

W. CRANCH.

Service acknowledged by GEORGE MACDANIEL.

Copy of appeal bond.

Know all men by these presents, that we
are held and firmly bound unto George Macdaniel, in the full and just sum of two hundred dollars, current money, to be paid to the said GeorgeMacdaniel, his certain attorney, executors, administrators, or assigns, to which payment well and truly to be made and done, we bind ourselves, and each of us, our, and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents; sealed with our seals, and dated this fourth day of June, in the year of our Lord one thousand eight hundred and thirty-one.

Whereas lately, at a circuit court of the United States for the District of Columbia, sitting for the county of Washington, in a suit pending in the said circuit court, wherein the United States of America were plaintiffs, and the said George Macdaniel was defendant, judgment was rendered against the said United States, and they having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said George Macdaniel, citing and admonishing him to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of August next.

Now, the condition of the above obligation is such, that if the said United States shall prosecute their writ to effect, and answer all damages and costs, if they fail to make their plea good, then the obligation to be void, else to remain in full force and virtue.

[SEAL.]
[SEAL.]

Signed, sealed, and delivered in presence of.

Copy: Test, W. BRENT, *Clk.*